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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

15 CR 825 (ALC)

5 ELIOT HALBERSTAM,

6 Defendant.

7 -----x
8 New York, N.Y.
9 January 21, 2016
1:00 p.m.

10 Before:

11 HON. ANDREW L. CARTER, JR.,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
Southern District of New York

17 ANDREW BEATY

Assistant United States Attorney

18 STACY RICHMAN

19 Attorney for Defendant
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(Case called)

MR. BEATY: Good afternoon. Andrew Beaty for the government.

MS. RICHMAN: Good afternoon, your Honor. Stacy Richman on behalf of Mr. Halberstam.

THE COURT: Good afternoon. Good afternoon, Mr. Halberstam.

What is the status of this matter?

MR. BEATY: Your Honor, the government is still in the process of putting together discovery and producing it. Other discovery, the child porn portion of discovery, are in the custody of the FBI, and I understand that Ms. Richman is in the process of trying to get in touch with the agent to coordinate the review of that discovery. The government intends to produce today -- hopefully today, if not then tomorrow -- the bulk of the NCP discovery to the defense.

MS. RICHMAN: If I may, your Honor.

I had reached out, with Mr. Beaty's help, to Agent Spivack to arrange to try to start reviewing that which I should for this matter. Agent Spivack has not returned my call as of yet. I understand from AUSA Beaty that he is about to begin his own trial and they are going to give me another agent to reach out to. I also wish to make the court aware that I am in a three-month long enterprise corruption case. I would be asking the court's indulgence that timing may be somewhat

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1 extended on this due to my commitment there.

2 THE COURT: Okay. How would you like to proceed?

3 MS. RICHMAN: First, your Honor, I look forward to the
4 receipt of the e-mails. Both AUSA Beaty and I expected I would
5 have received them already and I would have been able to begin
6 something along that line and then meet further with
7 Mr. Halberstam. Perhaps if we have another adjournment for
8 control to check on the status of discovery and our respective
9 trials.

10 I would also, if the court pleases, like to make a
11 bail application on behalf of Mr. Halberstam. If the court
12 would wish me to put it into writing, I am happy to do so. I
13 think it would facilitate my work with him vis-a-vis the
14 e-mails, which I understand from the government I may review
15 with Mr. Halberstam, obviously not the CP discovery.

16 THE COURT: Let's first deal with the first matter.
17 You would like to adjourn this until when for a status
18 conference?

19 MS. RICHMAN: I can only ask in terms of what the
20 government perceives their agent's timing will be in getting
21 back to me and what arrangements they can make with me. I have
22 tried to follow up, I just have not had a return call, not to
23 anyone's fault. I understand everyone is quite busy.

24 THE COURT: You're on trial now or you're about to
25 start a trial? You have a trial scheduled?

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1 MS. RICHMAN: I have been engaged. We don't have a
2 day off. Since it is a three-month trial, jury selection is
3 taking longer than expected. I have been engaged since
4 January 11.

5 THE COURT: All right. How about this, why don't we
6 adjourn this matter for approximately 45 days. Will that give
7 the parties enough time to try to coordinate discovery and give
8 counsel an opportunity to start reviewing discovery?

9 MR. BEATY: That's fine with the government. I'll
10 reach out to the case agent and another FBI agent today to tell
11 them that the timing is important to get defense counsel access
12 to the materials.

13 THE COURT: How does that sound?

14 MS. RICHMAN: I'll keep the court posted with regard
15 to the trial schedule. I have also suggested to the agent, if
16 I may meet with him during lunch breaks, after hours as well,
17 to help facilitate this matter.

18 THE COURT: Let's do this, let's adjourn the matter
19 for 45 days.

20 Could we get a date, Tara?

21 THE DEPUTY CLERK: March 7 at one o'clock.

22 MS. RICHMAN: That would be best.

23 With regard to the bail application, your Honor, is it
24 your preference that I place it in writing? I have already
25 concurred with the government. They will be opposing my

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1 application, but I do perceive that in accord with the statute,
2 despite the nature of this matter, that there are certainly
3 conditions that will both assure Mr. Halberstam's appearance
4 and the safety of the community, including, as I have already
5 presented to the government, places where he would be able to
6 stay with a bracelet that have absolutely no Internet access
7 whatsoever.

8 THE COURT: Before we get there, we have adjourned
9 this matter until March 7. I will exclude time under the
10 Speedy Trial Act from today's date until March 7 so that
11 defense counsel may receive the discovery and review the
12 discovery to be better prepared for trial. I find it is in the
13 interest of Mr. Halberstam and the interest of justice to
14 exclude time under the Speedy Trial Act from today's date until
15 March 7. I further find that those interests outweigh the
16 public's interest in a speedy trial, and I will enter an order
17 to that effect.

18 In terms of the bail application, here is what I will
19 do. I will refer this matter to the duty magistrate. You can
20 make the bail application before the magistrate judge.

21 MS. RICHMAN: Very good, your Honor.

22 THE COURT: Thank you very much.

23 Anything else from the government?

24 MR. BEATY: Nothing from the government, your Honor.

25 THE COURT: Anything else from the defense?

1 MS. RICHMAN: No. Thank you, your Honor.

2 THE COURT: Have a good day.

3 (Adjourned)

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